

Remarks

Applicants have read and considered the non-Final Office Action mailed July 8, 2010. A three (3) month Petition for Extension of Time is filed concurrently herewith. The time period for reply therefore extends up to and includes January 10, 2011 (January 8, 2011 falls on a Saturday).

Claim 2 is currently cancelled without prejudice or disclaimer. Claims 1, 5, 8, 13, 16, 19, 21, 28, 31, and 32 are amended. Claims 1, 5, 8-24, 27, 28, and 30-32 remain pending. Applicants respectfully request reconsideration and allowance of the pending claims for at least the following reasons.

I. **Claim Objections**

Claim 16 is objected to for including a typographical error. *See Action*, p. 2. Claim 16 is currently amended and overcomes the objection. Reconsideration and withdrawal of the objection are therefore requested.

II. **Claim Rejections - 35 U.S.C. § 112**

Claims 5, 8, 13, 19, 21, 28, 30, and 31 are rejected under § 112, second paragraph, as being indefinite for: a) including claim language that lacks sufficient antecedent basis; and b) generally being “vague.” *See Action*, pp. 2-3. Applicants respectfully traverse this rejection. However, claims 5, 8, 13, 19, 21, 28, 30, and 31 are currently amended to address each respective issue raised in the Office Action and overcome the indefiniteness rejections. Reconsideration and withdrawal of the rejection are therefore requested.

III. **Claim Rejections - 35 U.S.C. § 102: Safir**

Claims 1, 19, and 21-24 are rejected under § 102(e) as being anticipated by U.S. 6,994,827 to Safir. *See Action*, pp. 4-10. Applicants respectfully traverse this rejection and do not concede the correctness of any characterization of the cited reference or subject matter of the present application. However, in an effort to expedite the present application to allowance,

independent claim 1 is amended to incorporate the subject matter of cancelled claim 2. Specifically, claim 1 as amended recites, in part, “a sample distribution module including a hopper or funnel with a fixed position in which samples to be analyzed are poured, the sample distribution module being responsible for adding or distributing samples to a chosen processing module container or containers and for bringing samples contained in a chosen container into contact with the sample homogenizer module and is fed by sample injectors from samples stored in multiwell plates.” As acknowledged in the Office Action, the subject matter of cancelled claim 2 is allowable over the art-of-record. *See Action, p. 15.* Reconsideration and withdrawal of the rejection of claim 1, as well as claims 19 and 21-24 that depend therefrom, are therefore requested.

IV. Claim Rejections - 35 U.S.C. § 102: Jacobs

Claims 1, 24, and 27 are rejected under § 102(e) as being anticipated by U.S. 6,905,816 to Jacobs. *See Action, pp. 11-14.* Applicants respectfully traverse this rejection and do not concede the correctness of any characterization of the cited reference or subject matter of the present application. However, as stated above, independent claim 1 is currently amended to incorporate the allowable subject matter of cancelled claim 2. Reconsideration and withdrawal of the rejection of claim 1, as well as claims 24 and 27 that depend therefrom, are therefore requested.

V. Claim Rejections - 35 U.S.C. § 103: Jacobs in view of Williams

Claims 28 and 30 are rejected under § 103(a) as being unpatentable over Jacobs (as applied above) in view of U.S. 7,118,907 to Williams. *See Action, pp. 14-15.* Applicants respectfully traverse this rejection.

Claims 28 and 30 depend from independent claim 1. As discussed above, pending claim 1 is allowable over the art-of-record. Reconsideration and withdrawal of the rejection of claims 28 and 30 are therefore requested.

VI. Allowable Subject Matter

Claims 2, 9-12, 14-18 and 20 are indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. *See Action, p. 15.* Additionally, claim 5, 8, 13, 31 and 32 are indicated as allowable if rewritten to overcome the pending § 112-based rejection, and to include all of the limitations of the base claim and any intervening claims. *See Action, p. 16.*

As discussed above, independent claim 1 is currently amended to incorporate the allowable subject matter of canceled claim 2. Additionally, at least claims 5, 8, 13, 31 and 32 are amended to overcome the pending § 112-based rejection. Reconsideration and allowance of claim 1, as well as pending claims 5, 8-24, 27, 28, and 30-32 that depend therefrom, are therefore requested.

VII. Form PTO-892

The Form PTO-892 appended to the non-Final Office Action mailed July 8, 2010 inadvertently omits citation of the above-mentioned references, as well as other references identified on page 16 of the Office Action. Applicants respectfully request that the Examiner append a properly populated Form PTO-892 in a subsequent Office communication.

VIII. Conclusion

Favorable reconsideration in the form of a Notice Of Allowance is requested. Applicants do not otherwise concede the correctness of the Examiner's rejections and reserve the right to make additional arguments as may be necessary. Please contact the undersigned with any questions regarding this application.

U.S. Patent Application Serial No. 10/558,936
Reply to Office Action of July 8, 2010

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725.

Respectfully submitted,

MERCHANT & GOULD P.C.

By:


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